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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,323	07/14/2003	Lisa K. Jennings	20609/241 (PD) 02036/02037	8249

7590

11/30/2006

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EXAMINER

HADDAD, MAHER M

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/619,323	Applicant(s) JENNINGS ET AL.	
	Examiner Maher M. Haddad	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 72-75 and 79-108 is/are pending in the application.
- 4a) Of the above claim(s) 82-108 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 72, 73, 75 and 79-81 is/are rejected.
- 7) ☒ Claim(s) 74 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 1644

RESPONSE TO APPLICANT'S AMENDMENT

1. Applicant's amendment, filed 9/11/06, is acknowledged.
2. Claims 72-75 and 79-108 are pending.
3. Claims 82-108 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b) as being drawn to nonelected inventions.
4. Claims 72-75 and 79-81 are under consideration in the instant application as they read on a polypeptide that is a fragment of human CD9 and a chimeric protein wherein the fragment is SEQ ID NOs: 3-6.
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

7. Claims 72 and 80-81 are rejected under 35 U.S.C. 102(b) as being anticipated by US. Pat. No. 5,439,886.

The '886 patent teaches a CD9 polypeptide fragment comprises 29 amino acids of 164-192 of human CD9 (SDICPKKDVLETFTVKSCPDAIKEVFDNK), wherein said polypeptide comprises claimed SEQ ID NO: 5 and 6 (see patented SEQ ID NO: 6 and col., 21, under peptide 3 in particular).

The reference teachings anticipate the claimed invention.

8. Claims 72, 75 and 79-81 are rejected under 35 U.S.C. 102(b) as being anticipated by Ryu et al (Cell Struct Funct. 2000 Oct;25(5):317-327).

Ryu et al teach several chimeric CD9 polypeptides comprising EC2 domain of CD9 molecule (see Fig 1 in particular). EC2 of human CD9 comprises claimed SEQ ID NOS: 4-6.

The reference teachings anticipate the claimed invention.

9. Claims 72-73, 79-81 are rejected under 35 U.S.C. 102(b) as being anticipated by Crossno. J.T (Dissertation, Vol. 60(10B), 1999).

Crossno teaches a peptide fragment of human CD9, wherein the peptide is SEQ ID NO: 4 KDEPQRETLAIHYALNCCGLAGGVEQFISDICPKKDV, or SEQ ID NO: 6

Art Unit: 1644

PKKDVLETFTVKSCPDAI (see page 75, peptide 5b and 6, Table 3.1 and Figure 3.1 in particular). Further, Crossno teaches a peptide of human CD9 comprising amino acids 152-192 (see page 139, Fig. 5.2 in particular), said peptide comprises SEQ ID NO: 5.

The reference teachings anticipate the claimed invention.

10. Claim 74 is allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maher Haddad whose telephone number is (571) 272-0845. The examiner can normally be reached Monday through Friday from 7:30 am to 4:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 27, 2006



Maher Haddad, Ph.D.  
Primary Examiner  
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